

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

K.C., by and through Erica C., her guardian,
et al.,

No. C 05-4077 MMC

Plaintiffs,

**ORDER DENYING MOTION FOR LEAVE
TO FILE MOTION FOR
RECONSIDERATION**

v.

TOM TORLAKSON, in his official capacity
as Superintendent of Public Instruction for
the State of California, et al.,

Defendant.

_____ /

Before the Court is the Amended Request for Leave to File Motion for Reconsideration and Amended Motion for Reconsideration of the Court's March 20, 2015 Order, each said motion filed April 17, 2015, by defendants California State Board of Education, State of California Department of Education, and State Superintendent of Public Instruction Tom Torlakson (collectively "State Defendants"). Having read and considered the motions, the Court rules as follows.

In support of their Motion for Leave, the State Defendants rely on Civil Local Rule 7-9(b)(3), which provides as a ground for such leave "a manifest failure by the Court to consider material facts or dispositive legal arguments." See Civil L.R. 7-3(b)(3). In particular, citing two sections of the transcript of the hearing conducted on plaintiffs' motion for attorneys' fees, the State Defendants argue reconsideration is warranted because the

1 Court did not exercise its discretion in determining to exercise ancillary jurisdiction over the
2 fee dispute and, instead, made such determination based on the mistaken understanding
3 that it had been directed to do so by the Ninth Circuit Court of Appeals.

4 As reflected in the Court's findings at the hearing, however, the Court did make its
5 own determination to exercise ancillary jurisdiction and did not believe it was compelled by
6 the Court of Appeals to do so. The first section of the transcript on which the State
7 Defendants rely (see Mot. at 4:17-18 (citing March 20, 2015 Hr'g Tr. (hereinafter "Tr.") at
8 3:5-10, 3:23-25)), does not support the State Defendants' characterization of the Court's
9 ruling, particularly when read in the context of the Court's further discussion of the issue
10 (see Tr. at 4:1-6 (finding State Defendants' arguments did not overcome "policy
11 considerations" in favor of exercising jurisdiction); see also Plaintiffs' Motion for Reasonable
12 Attorneys' Fees and Expenses, filed January 30, 2015 at 10-14 (arguing applicable policies
13 favor exercise of ancillary jurisdiction)). The second section of the transcript on which the
14 State Defendants rely (see Mot. at 4:20-23 (citing Tr. at 4:12-22)) likewise is unavailing, as
15 that section relates to a different issue under consideration at the hearing and not the issue
16 of ancillary jurisdiction.

17 Accordingly, the State Defendants' motion for leave to file a motion for
18 reconsideration is hereby DENIED.

19 **IT IS SO ORDERED.**

20 Dated: April 21, 2015

21 
22 MAXINE M. CHESNEY
23 United States District Judge
24
25
26
27
28